

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD PAUL MELBOURNE,

Defendant.

CR 01-125-GF-BMM-01

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS TO REVOKE
DEFENDANT’S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on February 26, 2016. (Doc. 110.) Neither party filed objections. When a party makes no objections, the Court need not review de novo the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149–152 (1986). The Court will review Judge Johnston’s Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on February 17, 2016. (Doc. 105.) Melbourne admitted to violating his conditions of supervised release by committing a new crime, using alcohol, using marijuana, failing to notify probation within 72 hours of being arrested, and failing to attend a substance abuse testing appointment. (Doc 105.) Judge Johnston found the evidence sufficient to establish that Melbourne had violated the conditions of his supervised release. (*Id.*)

Judge Johnston recommends that the Court revoke Melbourne's supervised release. (Doc. 110.) Judge Johnston recommends that the Court remand Melbourne to the custody of the United States Bureau of Prisons for five (5) months with 36 months of supervised release to follow. (*Id.*) The Magistrate recommends that the same conditions of supervised release previously imposed should be continued.

Melbourne's violation grade is Grade C and his underlying offense is a Class A felony. He possesses a criminal history category of III. He could be ordered to remain on supervised release for up to 52 months, less any custody time imposed. The United States Sentencing Guidelines call for four to ten months in custody.

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Melbourne's current violation is serious in nature. A sentence of five (5) months imprisonment with 36 months of supervised release to follow, is sufficient, but not greater than necessary. The same conditions of supervised release previously imposed shall be continued.

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 110) is ADOPTED IN FULL. **IT IS FURTHER ORDERED** that Defendant Richard Paul Melbourne's supervised release shall be revoked and he shall be committed to the custody of the United States Bureau of Prisons for five (5) months with 36 months of supervised release to follow.

DATED this 15th day of March, 2016.



Brian Morris
United States District Court Judge